

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of : Attorney Docket No. 2006\_1381A  
Peter HEROLD et al. : Confirmation No. 8997  
Serial No. 10/593,461 : Group Art Unit 1628  
Filed September 19, 2006 : Examiner Rei Tsang Shiao  
ORGANIC COMPOUNDS : Mail Stop: RCE

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**REPLY TO ADVISORY ACTION**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

The Advisory Action of October 21, 2009, in that item 7, indicates that the Amendment filed September 29, 2009 will not be entered, but the continuation sheet attached to the Advisory Action, in item 4, indicates that the amendments have overcome the rejection of the claims under 35 U.S.C. 112. In any event, it is Applicants' understanding that, in view of the current filing of the RCE, the Amendment filed September 29, 2009 will be entered, and that the rejection of the claims under 35 U.S.C. §112 has been/will be withdrawn.

With regard to item 3 on the Continuation Sheet of the Advisory Action, Applicants again respectfully request that the Examiner hold the provisional obviousness-type double patenting rejection in abeyance, pending an indication that the claims of the present application are otherwise in condition for allowance.

In item 2 on the Continuation Sheet, in maintaining the rejection of the claims under 35 U.S.C. §103(a) based on the TenBrink et al. reference (US '360), the Examiner takes the position that this reference discloses compounds similar to the presently claimed compounds, comparing each of the variables of the reference compounds with the variables of the presently claimed compounds. However, in order to support a rejection for obviousness based on structural similarity between the presently claimed compounds and the reference compounds, there must be a finding that there was some teaching, suggestion or motivation to modify the structure of the reference compounds in a manner that would lead to the presently claimed compounds, and there